1972. No. 320 **[NC]**

NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Jersey and Guernsey

ORDER, DATED 27TH NOVEMBER 1972, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966 AND SECTION 79 OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND) 1966.

WHEREAS by section 99 of the National Insurance Act (Northern Ireland) 1966(**a**) and section 79 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**b**) it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting the said Acts of 1966 in their application to cases affected by agreements with other governments providing for reciprocity in matters specified in those sections:

AND WHEREAS by subsection (1)(*a*) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**c**) it is provided that, so long as that section has effect, all functions which apart from that Act belong to the Governor in Council shall be discharged by the Secretary of State:

NOW, THEREFORE, the Secretary of State, in exercise of the powers conferred upon him by the said section 99, by the said section 79 and by section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972, and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the National Insurance and Industrial Injuries (Jersey and Guernsey) Order (Northern Ireland) 1972 and shall come into operation with effect from 2nd October 1972.

Modification of Acts

2. The provisions contained in the Agreement on Social Security set out in the Schedule shall have full force and effect so far as they relate to Northern Ireland and provide for reciprocity in any matters specified in section 99(1) of the National Insurance Act (Northern Ireland) 1966 or section 79(1) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966; and accordingly the National Insurance Acts (Northern Ireland) 1966 to 1972 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1972 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

(**a**) 1966. c. 6 (N.I.).
(**b**) 1966. c. 9 (N.I.).
(**c**) 1972. c. 22.

Revocation of Orders

3. The National Insurance and Industrial Injuries (Jersey and Guernsey) Order (Northern Ireland) 1966(**d**) and the National Insurance and Industrial Injuries (Jersey and Guernsey) Order (Northern Ireland) 1967(**e**) are hereby revoked.

Dated this 27th day of November 1972.

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

(**d**) S.R. & O. (N.I.) 1966, No. 92.
(**e**) S.R. & O. (N.I.) 1967, No. 239.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR SOCIAL SERVICES, THE MINISTRY OF HEALTH AND SOCIAL SERVICES FOR NORTHERN IRELAND AND THE LIEUTENANT-GOVERNOR OF THE ISLE OF MAN, WITH THE ADVICE AND CONSENT OF THE ISLE OF MAN BOARD OF SOCIAL SECURITY CONSTITUTED UNDER THE ISLE OF MAN BOARD OF SOCIAL SECURITY ACT 1970, OF THE FIRST PART, THE SOCIAL SECURITY COMMITTEE, WITH THE CONSENT OF THE STATES OF JERSEY, OF THE SECOND PART, AND THE STATES INSURANCE AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY OF THE THIRD PART.

PART I: DEFINITIONS AND SCOPE

ARTICLE 1

For the purpose of this Agreement, unless the context otherwise requires—

(*a*) "country" means the United Kingdom, Jersey or Guernsey, as the case may require;

(*b*) "United Kingdom" includes the Isle of Man;

(*c*) "Guernsey" includes the Islands of Alderney, Herm and Jethou;

(*d*) "legislation" means, in relation to any country, the legislation of that country specified in Article 2 of this Agreement;

(*e*) "competent authority" means—

(i) in relation to the United Kingdom, the Secretary of State for Social Services, the Ministry of Health and Social Services for Northern Ireland, or the Isle of Man Board of Social Security, as the case may require;

(ii) in relation to Jersey, the Social Security Committee;

(iii) in relation to Guernsey, the States Insurance Authority;

(*f*) "statutory adoption" means—

(i) in relation to the United Kingdom, adoption within the meaning of the Adoption Acts 1958 and 1968, the Adoption Act (Northern Ireland) 1967, the Adoption (Hague Convention) Act (Northern Ireland) 1969 or the Adoption of Children Act 1928 of the Isle of Man, as the case may require;

(ii) in relation to Jersey, adoption within the meaning of the Adoption (Jersey) Laws 1961 and 1965;

(iii) in relation to Guernsey, adoption within the meaning of the Adoption (Guernsey) Law 1960;

(*g*) "week" means a period of seven days beginning at midnight between Sunday and Monday;

(*h*) "contribution" means a flat-rate contribution;

(*i*) "voluntary contribution", in relation to any country, means a contribution which a person has paid under the legislation of that country for any week of absence from that country, being a week for which he was not liable to pay a contribution under that legislation;

(*j*) "contribution of the appropriate class" means a contribution having effect for the purpose of the benefit in question;

(*k*) "fund" means—

(i) in relation to the United Kingdom, the National Insurance Fund, the Industrial Injuries Fund, the Northern Ireland National Insurance Fund, the Northern Ireland Industrial Injuries Fund, the Manx National Insurance Fund or the Isle of Man Industrial Injuries Fund, as the case may require;

(ii) in relation to Jersey, the Jersey Insular Insurance Fund; and

(iii) in relation to Guernsey, the Guernsey Insurance Fund;

(*l*) any reference to a contribution paid under the legislation of one country includes a reference to a contribution treated as paid under that legislation;

(*m*) "old age benefit" means retirement pension (other than graduated retirement benefit) and age addition where payable under the legislation of the United Kingdom or old age pension under the legislation of Jersey or Guernsey;

(*n*) "sickness benefit" includes invalidity benefit as defined under the legislation of the United Kingdom;

(*o*) "standard rate of benefit" means, in relation to any country, the rate of old age benefit or widow's benefit, as the case may be, which would be payable under the legislation of that country, if all the conditions for that benefit were fully satisfied;

(*p*) other expressions have the meanings respectively assigned to them in the legislation of the United Kingdom, Jersey or Guernsey, as the case may require.

ARTICLE 2

(1) The provisions of this Agreement shall apply—

(*a*) in relation to the United Kingdom, to—

(i) the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1971 and the legislation repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

(ii) the National Insurance (Industrial Injuries) Act 1965, the legislation consolidated by that Act, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 and the National Insurance (Industrial Injuries) (Isle of Man) Act 1971;

(*b*) in relation to Jersey, to the Insular Insurance (Jersey) Law 1950;

(*c*) in relation to Guernsey, to the Social Insurance (Guernsey) Law 1964 and the legislation repealed by that Law.

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement shall apply to any Act, Law, Ordinance, order or regulation which amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Agreement shall apply, only if the Contracting Parties so agree, to any Act, Law, Ordinance, order or regulation which amends or supplements the legislation specified in paragraph (1) of this Article for the purpose of giving effect to any agreement providing for reciprocity with a scheme of social security in a fourth country.

PART II: CONTRIBUTIONS

ARTICLE 3

Payment of Contributions

(1) Where a person, who is ordinarily resident in one country, and is employed in that country in the service of an employer who is ordinarily resident there or has a place of business there, goes in the course of that employment to work temporarily in another country, contributions in respect of that employment shall be payable under the legislation of the former country as if he were employed in that country and shall not be payable under the legislation of the latter country.

Provided that, if his employment in the latter country has lasted for as long as twenty-four months this paragraph shall cease to apply to him unless the competent authorities of the two countries otherwise agree in any particular case.

(2) Where a person in the Government service of one country goes in the course of that employment to work in another country and the provisions of paragraph (1) of this Article do not apply to him or have ceased to apply to him, he shall be entitled to choose within three months of the beginning of that employment in the latter country or of the time when those provisions cease to apply to him that, as from the date on which he gives notice to the competent authority of the latter country contributions in respect of that employment shall be payable under the legislation of the former country as if he were employed in that country and shall not be payable under the legislation of the latter country.

(3) The competent authorities of any two countries or of all three countries may provide by agreement—

(*a*) that paragraph (1) of this Article shall not apply in particular cases;

(*b*) that paragraph (2) of this Article shall apply to persons in the service of any public corporation of one country, being a public corporation designated by them, in the same way as it applies to persons in the Government service of that country.

(4) Where in any week a person is employed in any two countries by the same employer, neither he nor his employer shall be liable, under the legislation of one of these countries, to pay a contribution for that week in respect of that employment if they have so paid contributions under the legislation of the other country.

(5) Where, by virtue of the provisions of paragraphs (1), (2) or (4) of this Article, a person is relieved of the liability to pay a contribution for any week as an employed person under the legislation of any country, he shall not be liable to pay a contribution for that week as a self-employed or non-employed person under that legislation.

(6) Where a person in the service of an employer is entitled to receive holiday pay from that employer for the whole or part of any week and has paid a contribution as an employed person under the legislation of one country for that week in respect of that employment, he shall not be liable, under the legislation of another country, to pay a contribution for that week as an employed person or as a self-employed person or as a non-employed person.

(7) A person who, but for the provisions of this paragraph, would be liable to pay in respect of any week—

(*a*) a contribution as an employed person under the legislation of one country and a contribution as a self-employed or non-employed person under the legislation of another country shall be liable to pay only the contribution as an employed person.

(*b*) a contribution as a self-employed or a non-employed person under the legislation of one country and a contribution as a self-employed or non-employed person under the legislation of another country shall be liable to pay a contribution only in the country under whose legislation liability first arises in that week.

(8) A person who has paid a contribution for which he is liable for any week under the legislation of one country shall not be entitled to pay a voluntary contribution under the legislation of another country for the same week; provided that—

(*a*) for the purpose of calculating the yearly average of contributions which a person has paid or had credited to him under the legislation of one country, any contributions which he has paid or had credited to him under that legislation for any contribution year after the contribution year which includes 4 April 1966 and before the date on which this agreement comes into force shall for the purpose of widow's benefit and retirement pension be disregarded in so far as they raise the sum of their number and the corresponding number for the same contribution year of another country which provides a higher standard rate of benefit, or, being the country where the claimant is resident at the time when he first claims benefit or was last resident before that time, provides an equal standard rate of benefit, above the number of weeks in that year;